

Before The
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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Complaint on Sunday
and Holiday Collections

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Docket No. C2001-1

REPLY BRIEF OF THE
OFFICE OF THE CONSUMER ADVOCATE

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July 23, 2002

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The Office of the Consumer Advocate ("OCA"), pursuant to Rule 34 of the Rules of Practice and Procedure of the Postal Rate Commission ("Commission"), 39 C.F.R. §3001.34, and pursuant to the Presiding Officer's Ruling No. C2001-1/21,¹ hereby submits its Reply Brief in response to the Initial Briefs filed on July 23, 2002.²

STATEMENT OF OCA POSITION

Complainant Carlson has raised an important issue in the instant Complaint – should the Postal Service first come to the Commission for an opinion on changes in the nature of postal services that will have a nationwide (or substantially nationwide) effect? Naturally, the answer to this question is affirmative since 39 U.S.C. §3661 is explicit on this point. A second question follows the first, are the many changes challenged in the Carlson complaint of a type subject to the Commission's authority?

¹ "Presiding Officer's Ruling Granting Joint Motion," June 25, 2002.

² Initial Briefs were filed by Douglas F. Carlson, the United States Postal Service, and the participant, David B. Popkin.

The latter question, a factual one, is more difficult to answer from the record developed in this proceeding. Throughout this proceeding, Complainant Carlson has focused on the time and manner of processing mail. The record is devoid of information on the extent to which delivery standards have changed as a result of the processing changes detailed in the record. If the collection and processing changes of which Mr. Carlson has complained have resulted in a significant deterioration in the time for delivering mail, then the Commission has a statutory duty to admonish the Postal Service for making such changes without evidence of the impact of such changes on the public. If, on the other hand, delivery standards have not deteriorated as a result of processing changes, then such changes are outside the authority of the Commission.

Unfortunately, the record does not permit a clear-cut answer to this question.

OCA does find, however, that the June 26, 2002 Memorandum of the Postal Service restating firmly its position on holiday eve collections is an important improvement in policy. Mr. Carlson is to be commended for bringing about this change. The Postal Service must share the credit for it recognized that the lack of a uniform policy resulted in considerable uncertainty and misunderstanding on the part of the public about when mail might be collected on the eve of a holiday.

In view of the Postal Service memorandum included in the Postal Service's Initial Brief directing additional actions to be taken by the field management, certain of the OCA's recommendations presented in the Initial Brief appear to be moot. Taking into account the policies expressed and reiterated in the June 26, 2002 Memorandum, the OCA recommends the following findings in the Commission's report:

1. The Postal Service should take immediate steps necessary to insure that its POM and the DMM are consistent with one another.

2. The Postal Service's internal procedural policies providing for extremely limited exceptions to early collection times are sufficiently clear and concise. The few deviations from the general policy are matters to be addressed by upper management and do not rise to a need for a change in nationwide policy.

3. To the extent the Postal Service allows limited exceptions in exceptional circumstances to its nationwide policy of adhering to box collection times, Postal Service management should: (1) standardize public messages to the extent possible; (2) standardize the system for notifying the public of changes in collections; (3) increase significantly the public notices, to include notices placed on individual mail boxes and the issuance of additional media notices; and (4) standardize post office notices.

4. The holiday collection and processing service appears to comport with current management policy, but it is not clear whether there has been a significant deterioration in service as a result of changes in holiday collection and processing.

5. The Postal Service should provide on every mailbox label a list and the date of each holiday observed by the Postal Service and any collections that will be made from that box on holidays.

ARGUMENT

I. Holiday Eve Service

A. Policy

The Postal Service brief includes a recent holiday memorandum (Memorandum) issued by the Chief Operating Officer of the Postal Service dated June 26, 2002 after the close of this record. That Memorandum appears to require significantly greater adherence to the Postal Service's policy regarding early holiday eve pick-up.³ The Memorandum states,

Routine district-wide collection adjustments on holiday eves will not be permitted and EXFC testing will not be suspended. However, requests to advance or suspend collections in a localized area will be approved if collections are impractical due to special activities (e.g. Times Square in New York City on New Year's Eve, special requests from public officials due to public events such as parades, festivals, etc.). (USPS Init. Br. Appendix.)

The policy reiterated in the Memorandum is the same as that recommended by the OCA in its Initial Brief that the Postal Service should eliminate the policy of readily allowing exceptions to collection times on holiday eves. (OCA Init. Br. at 29.) More strictly adhering to the policy will insure standardized holiday eve collection service throughout the nation so that all customers may be confident that the specified collection time will be honored when a letter is mailed.

The Postal Service brief explains that the Memorandum is an instruction to all districts to conform to the customary Headquarters guidance to the field. (USPS Br. at

³ One page Memorandum to Vice Presidents, Area Operations Manager, Capital Metro Operations. Subject: "Policy on Holiday and Holiday Eve Collections," from Patrick R. Donahoe, Chief Operating Officer and Executive Vice President, June 26, 2002.

26.) However, the customary guidance to the field has been to maintain normal collections on Christmas and New Year's Eves; yet, there have still been 15 districts out of approximately 85 districts⁴ that adjusted collection schedules on one or both of these days in December 2001. Thus, although the policy guidance has been to maintain normal collections on holiday eves, nevertheless, early collections have occurred on a regular basis.

The Postal Service's Initial Brief concludes that, "Compliance by the field with this guidance should alleviate in the future the routine occurrence of the conditions of which Mr. Carlson complains regarding holiday eves." (*Ibid.*) In light of the liberal exceptions to holiday eve collection schedules allowed recently, it is not entirely guaranteed that the districts or smaller units might not continue to make exceptions to the nationwide policy. If deviations are rare and not countenanced by headquarters, the problem could reasonably be viewed as localized.

The impact of the Memorandum is that it renders moot much of Carlson's request to eliminate early collections on holiday eves and also directs actions that would significantly improve the prior notice to be given to the public in the few instances when early closings may occur.⁵

⁴ OCA's Initial Brief erroneously stated there are 224 Postal Service districts (OCA Init. Br. at 13.) In fact there are 85 districts. Within the 85 districts there are 224 3-Digit Zip Codes listed in an Appendix in the Carlson testimony (Carlson, Part 2, Appendix 2.) That does not undermine the thrust of the argument in OCA's brief on page 13 that the early holiday eve collections were undertaken in relatively few districts.

⁵ With respect to holiday eve collections, Carlson's Initial Brief contends that the Postal Service improperly eliminated mail collections at normal times on some holiday eves without first obtaining an advisory Commission opinion pursuant to 39 U.S.C. 3661. The Commission's view is that, having gone forward, the issue of an advisory opinion falls into the background. (Order No. 1312 at 6, See also USPS Init. Br. at 2, note 1.) The authority to issue an advisory opinion arises pursuant to a different section of the statute than the report that will be issued pursuant to Carlson's complaint under §3662 at the end of this proceeding. In this case, the result is effectively the same: a Commission review of the facts

The Memorandum directs field management to take some of the same actions regarding prior public notice of early collections that the OCA recommended to the Commission in its Initial Brief.⁶ For instance, the Memorandum provides for “prominent signs in all relevant retail locations and should be made sufficiently in advance to allow customers to adjust their mail deposits, if necessary.” Previously, notices in retail locations were not necessarily provided to the public. (Carlson, Part 2 at 38.) This policy is similar to OCA’s recommendation that the Postal Service post notices in post offices well in advance of the early collection date. The Memorandum also requires “Effective prior notice to the public....” This suggests that if prior public notices had been ineffective, additional media notices and other notices will be forthcoming. If so, that would also be consistent with the OCA recommendation to significantly increase public notices and the issuance of additional media notices. (OCA Br. at 29, para. 3.) Thus, it appears the Postal Service recognized the shortcomings of its policy as administered and realized that a reiteration of its policy statement was necessary.

Despite these improvements, the Postal Service policy still falls short on the necessary steps for public notification of early collections on holiday eves. OCA continues to recommend certain steps if early holiday eve collections are necessary as listed in the Initial Brief: (OCA Br. at 29, para. 3.)

1. Standardized public messages to the media;

surrounding the issue of early collections times. In any event, the issue also appears to be moot as a result of the June 26, 2002 Postal Service memorandum discussed herein.

⁶ The Postal Service suggests that public notification of early collections did meet minimum notice requirements when districts wished to have EXFC testing modified due to scheduling adjustments. (USPS Br. at 25-6.) However, those minimum notification requirements do not include the fuller notice requirements of the June 26, 2002 USPS memorandum, let alone placing notification on the individual collection boxes affected as well as the standardization of public notices.

2. Standardized system for notifying the public;
3. Notices placed on individual collection boxes affected by early collections; and
4. Standardized post office notices.

B. Statutory Issue

In Order No. 1307,⁷ the Commission determined that the Postal Service's decision to discontinue Sunday processing service should have been first brought before this Commission pursuant to §3661 of the Postal Reorganization Act. The Commission stated three reasons for exercising its discretion to forego a hearing on the matter; (1) the long passage of time since the policy change had reduced the value of discussing the impact of the change on mailers, (2) Carlson had not alleged any detriment from the policy change, and (3) there had not been any timely mailer-initiated public discussion concerning the impact on the current level of service. (Order No. 1307 at 14.)

Similarly, to the extent that the June 26, 2002 Memorandum reflects a policy change on a nationwide basis, then arguably that policy change should have been placed before the Commission prior to its issuance. However, in OCA's view, the Memorandum does not rise to the stature of a policy change. Rather, as the USPS suggests, it is essentially a reaffirmation of the general policy, in existence for several years, to allow only limited modifications in holiday eve schedules.

Even if the Memorandum contains some policy changes, the impact of the Memorandum is, at best, to eliminate the few exceptions to holiday eve collection

⁷ "Order Partially Denying Motion of United States Postal Service to Dismiss Complaint and Notice of Formal Proceedings," March 20, 2001 at 13.

schedules that have occurred which is the relief Carlson is requesting, and it is consistent with OCA's recommendation.

This proceeding has compiled a record investigating the Postal Service's practices regarding public notices of early holiday eve collections so that essentially, even if the Commission determined that a hearing on the "new" policy were desirable, the record compiled would be the same as in this proceeding. Thus, to the extent the issue may arise for consideration, the Commission should determine that no further hearing pursuant to §3661 is necessary regarding the policies covered by the Memorandum.

C. Collection Box Labels

Carlson also requests that the Postal Service modify the Collection Box Management System data base and announce holiday service levels by including a holiday collection time on each collection box label and the holidays on which this collection time applies. (Carlson, Init. Br. at 30, para. 3.) Until the Postal Service is able to place holiday collection labels on collection boxes, Carlson states that the Postal Service should "post signs in post-office lobbies indicating the holidays on which outgoing mail service will be provided and the final collection time at the post office for depositing outgoing mail." (ibid.)

It appears the Postal Service is attempting to finesse Carlson's request to expand the information on collection box labels as to holiday collection times. The Postal Service's Initial Brief points out that the Postal Service Memorandum of June 26, 2002 reiterates to the field management the necessity of following the current collection

box label policy. That is, no holiday collection times are to be listed unless the mail in the box is expected to be collected and processed on every holiday. (USPS Br. at 22.).

This policy may appear to be a panacea to Carlson's request to inform the public of collection times because it eliminates all expectation of collections on holidays. However, the practice may mislead the public if indeed the Postal Service does provide collection services on certain holidays. The better practice is for headquarters to squarely address the issue and undertake to provide all the information that may be needed by mailers at each box concerning each holiday. The Postal Service should provide a list on each collection box label of the name of each holiday and the date of the holiday each year to insure that mailers are made aware that a holiday is being observed by the Postal Service on a particular date. In many cases, non-widely observed holidays occur on different dates each year. Many people are not aware of the specific dates of holidays from year to year. Also, many mailers living outside Washington, D.C. or not employed by the federal government may not even be aware of certain holidays. Foreign nationals also, either living or visiting in this country, may be unaware of the dates of federal holidays. During the year, the Postal Service should undertake continuing adjustments to adequately inform every mailer approaching a collection box whether and when on each specific holiday there will be collections. Even if the Postal Service does not intend to make any holiday collections during the year, the Postal Service should list on each box the holidays and the dates of the those days that it considers holidays.

II. Mail Processing Issues

A. Holiday Processing

Carlson contends the Postal Service was required to request an advisory opinion pursuant to 39 U.S.C. §3661(a) of the Postal Reorganization Act before it “eliminated processing of outgoing First-Class Mail on several holidays.” (Carlson Init. Br. at 1.) He further contends the evidence demonstrates the Postal Service is not providing “adequate and efficient” postal services on holidays.

As for the first contention that an advisory opinion should have been requested, that issue has fallen into the background with the Commission’s moving forward with the complaint. (Order No. 1312 at 6.)

As to the second issue concerning adequate service on holidays, it is Carlson’s view that additional mail processing on holidays is necessary to meet the needs of the public. In OCA’s view, the significant question in this case relates to the Postal Service’s ability to maintain its delivery standards for the benefit of mailers; it is not the amount of mail processing the Postal Service undertakes in the process of moving the mail to meet the delivery standards. The record in this case indicates that the Postal Service’s holiday processing in recent years has dealt with the ebb and flow of mail volumes consistent with the extent that each of the holidays is observed and as technological and managerial techniques have evolved. Mail processing varies among the processing plants as needed. Mail processing occurs on all holidays at some plants, at some plants on all holidays, and on many plants on many holidays. (See LR-6/C2001-1.) Mail processing is now consolidated among a group of plants within an

area for increased efficiencies; thus rendering some plants idle that formerly processed mail on holidays.

The Postal Service's mail processing pattern on holidays indicates that the primary policy of the Postal Service is to maintain service to the public without a breakdown in the operating plan following the holiday. The significant issue is not whether or not the Postal Service processes mail on certain holidays; rather, it is whether the historical changes in the processing plant plans impact the Postal Service's ability to meet its delivery service standards. Service standards take into consideration the holiday, whether it falls in the middle of the week or on a Saturday or Monday. It appears that the effect of a holiday is to extend by one day the applicable delivery standard deadline date, but this fact has not been clearly established

The record contains no data on the actual delivery times of the mail resulting from the impact of the changing holiday mail processing procedures. There is no comparison of the Postal Service's EXFC scores or any other sampling test scores for mail processed at plants that formerly processed mail on holidays and that now do not process mail on holidays. Nor does any of the record data consider the impact on the EXFC scores or other scores if the mail has not been processed at the usual processing plant on a given holiday but processed at another plant. In fact, the Postal Service has indicated the better measure of the adequacy of service is to consider the failed plans around a holiday as the measure of the success. To avoid plan failures after the holiday, the Postal Service performs additional collections the morning after the holiday to avoid plan failures. (Carlson, Part 1 at 18.) There are no data in the record indicating that plan failures are greater for plants that do not process mail on

holidays, or more precisely, greater than the plan failures for the plants not processing mail on holidays which used to process mail on holidays.

Carlson complains forcefully of the situation on weekend holidays where mail may not be processed for two consecutive days on non-widely observed holidays (Carlson Init. Br. at 30, para. 1), or on widely observed holidays (except possibly Christmas and New Year's Eve) that fall on Mondays. (Id. at para. 2.) He also contends the Postal Service should use consolidation plans to avoid operating every processing plant. (Id. at para. 1.) Carlson states that plants not processing outgoing mail on non-widely observed holidays are stranding at least 40 percent of their normal weekday volume. (Carlson Init. Br. at 16.)

Carlson is effectively asking the Postal Service to disregard federal holidays for mail processing purposes if the holidays are not widely observed even though the Postal Service always celebrates all federal holidays by closing its retail services on those days. Currently, the delivery standard recognizes federal holidays, whether or not widely observed. The record contains scant information on the effect on delivery times of the observance of federal holidays; it does not show whether delivery times are increased for outgoing mail passing through a plant that does not process mail on a particular holiday. Nor does the record show whether, even if that were the case, the decision to eliminate holiday processing was the cause of the deteriorating service. The Postal Service states that, with technological advances, the processing plants are able to handle mail faster after the holiday than previously so that it is not necessary to process mail during the holidays except where there are likely to be large amounts of holiday mail. (DFC/USPS-54, also DFC/USPS-9.) The Postal Service management

takes the recent historical past as well as current operating efficiencies into account in determining whether a particular plant should process mail. (DBP/USPS-22.) Thus, even though the Postal Service reduced its mail processing at plants on holidays, it is not clear if there has been an impact on the ultimate delivery times of the mail. This Commission has recognized that the Postal Service may fairly respond to a complaint pursuant to §3661 by showing the reduction in processing operations “had only a minor impact on the actual nature of the postal service.” (Order No. 1307 at 13, note 12.) The record is silent on whether there has been an impact on nationwide delivery service.

The Postal Service claims to be operating the processing plants in the way it deems to be most efficient. The record does not contradict that claim. In fact, there is nothing in the record demonstrating that postal management has not chosen the most efficient processing. To change the service standard would incur additional labor costs, much of it holiday wages, as well as the cost of running the plants that presently are idle. Postal Service finances are already tight; and it is understandable that the Postal Service is trying to cut costs. Balanced against the interest in reducing costs is a possible reduction in service but, as stated above, the record fails to establish whether service has been reduced and to what extent.

Carlson articulates the criterion for determining whether service is adequate as: is there collection and processing on holidays? However, as noted above, the effect of reduced holiday processing on meeting delivery service standards has not been established. “Adequate service” is the statutory criterion of concern.

Carlson cites several reasons why mailers need holiday service. On the other hand, the public may now be accustomed to limited Postal Service operations on

holidays. After all, the Postal Service is a federal entity, and the Congress has set aside certain days as national days of observance. Most government operations are substantially curtailed during federal holidays, except those services that are necessary for the public health or safety. The curtailment of operations for the day necessarily means work is not accomplished on that day which would otherwise be accomplished. It is a trade-off determined in the first instance by Congress. There is no suggestion that the Postal Service not take into account the holidays when establishing delivery standards. Also, financial institutions adhere to federal holidays so mailers should be aware of even non-widely observed federal holidays. For a firm determination whether mail should always be processed on holidays, or some holidays, the record would need to be supplemented on the effect of the Postal Service's policy on delivery performance and how *that* affects the public's need for postal services.

B. Revision of POM and DMM

Carlson also says the Postal Service should revise POM Exhibit 125.22 and DMM Section G011.1.5. (Carlson, Init. Br. at 30, para. 3.) This is consistent with the OCA position that the Postal Service make consistent the POM and DMM. (OCA Init. Br. at 8-9, 29.) This is not opposed by the Postal Service.

PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

The OCA proposes that the Commission reach the following findings and conclusions:

1. The Postal Service should take immediate steps necessary to insure that its POM and the DMM sections regarding holiday collection and processing policies are consistent and correctly reflect current operational policies.

2. The Postal Service's internal procedural policies providing for rare exceptions to normal collections on holiday eves are sufficiently clear and concise and are applied consistently on a nationwide basis.

3. To the extent there are limited necessary exceptions to holiday eve collection policies, Postal Service management should:

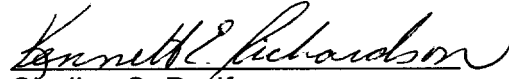
- Standardize, to the extent possible, public messages concerning early collections;
- Standardize the system for notifying the public of changes in collections;
- Increase significantly the public notices, to include notices placed on individual mail boxes and the issuance of additional media notices; and
- Standardize post office notices.

4. The holiday collection and processing service appears to comport with current management policy, but it is not clear whether there has been a significant deterioration in service as a result of changes in holiday collection and processing.

5. The Postal Service should provide on every mailbox label a list and the date of each holiday observed by the Postal Service and any collections that will be made from that box on holidays.

Respectfully submitted,

OFFICE OF THE CONSUMER
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A handwritten signature in cursive script, appearing to read "Shelley S. Dreifuss".

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.

Deborah Everett

Deborah Everett

Washington, D.C. 20268-0001
July 23, 2002